

Moti and ors. Vs. Roop Narain

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Court : Rajasthan

Decided On : Nov-10-1986

Reported in : 1987(2)WLN670

Judge : Guman Mal Lodha, J.

Appeal No. : S.B. Criminal Reference No. 17 of 1979

Appellant : Moti and ors.

Respondent : Roop Narain

Judgement :

Guman Mal Lodha, J.

1. In 1972 proceedings under Section 148 Cr. P.C. commenced and the Magistrate concerned drew up the preliminary order in pursuance of application dated 1-8-1972. In 1978 the Magistrate found that no one was taking any interest and appearing in the case, therefore the proceedings were dismissed and dropped. A reference has been made on account of revision filed by party No. 2 on the ground that criminal proceedings under Section 145 Cr. P.C. cannot be dropped in absence of counsel. Since reference appears to be justified because the proceeding under Section 145, Cr. P.C. is primarily proceeding for ensuring peace by taking cognizance of dispute regarding land where either both parties or one of the party wants to take possession by muscle strength and therefor

absence of party is not material. The reference is therefore, accepted and the order passed by the Magistrate concerned for dismissing the complaint under Section 145 Cr. P.C. is quashed. However the learned Magistrate before starting proceedings afresh should ascertain from the SHO concerned whether any dispute now subsists. It is necessary because the proceedings started in August, 1972 and now we are in 1986 i.e. about 14 years has passed in between. Normally an apprehension of breach of peace cannot subsist for such a long period. It is unfortunate that both the Magistrates kept the case pending for such a long period and then in this court the referent has remained Pending from 1979 to 1986.

2. Keeping of such reference pending for such a long time results in virtual denial of justice and makes the entire proceedings virtually counter productive as becomes slur and stigma on judicial functioning of ours. Let there be no recurrence and the office after approval of Hon'ble C.J., list all references and petitions forthwith.

3. With the above observations the reference is accepted and the impugned order quashing the proceedings is quashed.

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